

BOARD OF PAROLE HEARINGS "ATTORNEY PACKET"

APPLICATION FOR ATTORNEY APPOINTMENT ROSTER

Place me on your list of attorneys for the following types of hearings:

- ☐ Life Parole Consideration Hearings
- ☐ Revocation and Revocation Extension Hearings
- ☐ Mentally Disordered Offender Hearings
- ☐ Probable Cause Hearing (Sexually Violent Predator)

Name

Street Address

City, State and Zip

Cal. State Bar Number Liability Insurance Carrier & Policy # Eff. Dates () _____
Ins. Contact Telephone #

Business Number: () _____ Facsimile Number: () _____

Cellular Number: () _____ Pager Number: () _____

Please indicate the counties and prisons for which you wish to receive appointments:

Counties

Institutions

Comments: _____

Signature

Date

Return to: Board of Parole Hearings
P.O. Box 4036
Sacramento, CA 95812-4036
Attention: Scheduling Unit
Telephone: (916) 324-1924
Facsimile: (916) 324-9962
E-Mail: attysch@cdcr.ca.gov

Please be sure to include the following three completed forms with original signatures:

(1) Application Attorney Appointment Roster, (2) Standards and Certification, and (3) Vendor Data Record (Std. Form 204)

BOARD OF PAROLE HEARINGS "ATTORNEY PACKET"

STANDARDS AND CERTIFICATION

The Board of Prison Terms (Board) wishes to ensure that attorneys appearing before the Board meet the minimum standards of competence and behavior required. Therefore, the following standards delineate the responsibilities of attorneys relative to investigation and evaluation of cases, preparation and conduct of hearings, and advocacy for their clients.

- a. Standards relating to investigation and evaluation of cases:
 - 1. Attorney shall review the inmate's file prior to the hearing; and,
 - 2. Attorney shall interview their client prior to the hearing.
- b. Standards relating to preparation and conduct of the hearing:
 - 1. Attorney shall read the portions of Title 15, California Code of Regulations; and the Penal Code which relate to the proceedings for which he/she has been appointed;
 - 2. Attorney shall be familiar with objections available under the Evidence Code in administrative proceedings and shall not make any objections which are frivolous and intended solely to delay or obfuscate;
 - 3. Attorney shall present concise arguments which are well grounded in the law during the proceedings;
 - 4. Attorney shall make any requests for continuance pursuant to Title 15, California Code of Regulations, § 2253, and is informed that unless good cause is shown, no request for continuance shall be granted;
 - 5. Attorney shall appear on time and in attire appropriate to proceedings in a state court (and acceptable for entry into the prison/jail hearing location);
 - 6. Attorney should be aware of Title II of the Americans with Disabilities Act, shall be familiar with provisions of the Armstrong Remedial Plan II applicable to the proceedings, and prisoners'/parolees' requests for reasonable accommodation; and
 - 7. Attorney shall complete the Board's Internet-based attorney training.
- c. Standards relating to advocacy:
 - 1. Attorney shall be familiar with and conform to the Rules of Professional Conduct, and maintain Professional Liability Insurance of \$100,000/\$300,000.
 - 2. Attorney shall act as an advocate for client to the best of his/her ability and always act in the best interests of client.

I, _____, [print or type name] certify that I have read the Standards set forth above and understand that I shall be required to meet them at any future proceedings for which I have been appointed. I understand that failure to meet or maintain these Standards may result in my removal from the list of eligible attorneys entitled to practice before the Board.

I also understand that failure to return this certification shall result in my removal from the list of eligible attorneys entitled to practice before the Board.

Date

Signature

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ATTORNEY FEES -- RATE OF PAY

The Board of Prison Terms (Board) shall pay attorney services or travel time at the rate of \$30.00 per hour. However, one hour is the maximum travel time that shall be billed per location per day without prior approval.

Hearings: The Board has determined the maximum amount of time that a reasonably experienced attorney appointed for the various types of hearings is able to complete the case (preparation, hearing and travel):

Lifer	8 hours
En Banc Meetings: Tie Vote or Decision Review <u>Appearance</u>	2 hours
En Banc Meetings: "" "" <u>Telephone, or Audio/Video/Written Stmt</u>	1 hour
Revocation	6 hours
Revocation Extension	4 hours
Mentally Disordered Offender (MDO)	
Placement or Certification	4 hours
Annual Review	3 hours
Probable Cause Hearing	
(Sexually Violent Predator (SVP))	4 hours

Please refer to the appropriate guidelines in the attorney packet for reasonable amounts of time typically spent on the various aspects of hearing preparation. Note that the maximum allowances above are more than the typical amounts of time spent and billed.

Americans with Disability Act (ADA) Assignments: For hearings only, an additional one (1) hour may be billed above these maximums where the attorney was assigned as a reasonable accommodation. The attorney must describe the disability being accommodated on the invoice. This extra hour compensates the attorney for taking extra time to ensure the client understands and is able to participate in the proceeding to the best of his/her ability. [The Board shall not assign an attorney to clients who require this type of reasonable accommodation unless the attorney has completed BPT-approved ADA training.]

Consultations: For billing purposes, your meeting with the client for the purpose of discussing the hearing rights and evaluating the screening offer should be referred to as an "Attorney Consultation" (formerly known as "Serves"). Each consultation may be billed for actual time spent up to one (1) hour. If you are assigned for the consultation and the hearing, this time should be billed on the same invoice. The one-hour ADA premium does not apply to Consultations even if the client has a disability.

Some locations with a high volume of revocation cases will hire attorneys for the day to be "on call" for possible assignments. Attorneys hired in this manner shall be allowed to bill for the actual number of hours spent "on call." One hour travel to the hearing/consultation location is compensable if actually incurred.

Any additional travel time shall need prior approval of the Scheduling Unit at (916) 324-1924. Other extenuating circumstances required to fulfill client representation shall need prior approval from the Board's Legal Unit at (916) 322-6729.

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ATTORNEY ADVANCE INFORMATION SHEET LIFE PAROLE CONSIDERATION HEARING (Penal Code Section 3041)

A life parole consideration hearing is conducted pursuant to Penal Code section 3041. At this hearing, the prisoner has the right to be represented by an attorney (PC section 3041.7). Penal Code section 3041 sets forth, in general terms, the Board of Prison Terms' (Board) role in setting parole dates for life prisoners. The policy and procedures involved in implementing these statutory provisions are presented in Title 15, California Code of Regulations (CCR), §§ 2268, 2270, 2280 et seq. (for prisoners sentenced prior to 11/8/78) and in § 2400 et seq. (thereafter).

Pursuant to Penal Code section 3042, the district attorney of the commitment county is notified of the date, time, and place of the hearing. If the district attorney has submitted any documents concerning the prisoner's offense(s), the attorney shall receive copies of those documents. The district attorney or his/her representatives may participate in the hearing (15 CCR § 2030).

You should anticipate that a representative from the district attorney's office will participate in the hearing, either by sending a representative to the institution or via video conference. In addition, participation by the victim of the crime or the victim's next of kin may also occur with their appearance at the hearing or via video conference. See Penal Code sections 3042-3043.5.

Before the hearing, the attorney should interview his/her client and review his/her central file. The Board expects the attorney to interview his/her client and review his/her file sufficiently in advance of the hearing so the attorney will be prepared at the hearing. A failure to interview the inmate and review the file or other unprofessional conduct may result in removal from the list of attorneys available to represent prisoners at Board hearings.

In arranging interviews, the attorney should check with the institution concerning the hours during which he/she may see the client. The institution's Classification and Parole Representation (C&PR) will inform the attorney of the procedures for requesting and conducting a file review.

The hearing shall be conducted by either a two or three-person panel of which one or two must be Commissioners. The remaining panel member may be a Deputy Commissioner. (See SB 778, Stats. 2001, ch. 131, eff. July 31, 2001). The attorney or his/her client may submit any relevant documents to the hearing panel. At the hearing, the attorney and his/her client may present statements and arguments and ask questions of the hearing panel. The attorney may also ask questions of his/her client before the panel.

If the district attorney attends the hearing, he or she will be permitted to ask questions and make a closing statement. The attorney and his/her client will be allowed to make a closing statement regarding parole suitability. If victim or next of kin is present, the final statements are made by the victim or next of kin. The attorney shall not be permitted to question or talk to the victim or next of kin.

The hearing is not a criminal trial but an administrative hearing, so the formal rules of evidence do not apply. The hearing panel may admit all relevant evidence including hearsay evidence.

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The hearing panel's decision shall be based on the information and testimony presented during the hearing, including relevant information in the client's file and any documents submitted before the hearing. The hearing panel may also rely on information not available to the attorney or his/her client because it has been designated confidential. If confidential information has affected a decision, the attorney shall be notified and the decision shall specify the documents used.

After the information gathering portion of the hearing, the Panel shall take a recess to deliberate. Once a decision is reached, the hearing shall reconvene and the panel shall announce a proposed decision. The proposed decision shall be sent to the Sacramento office for review. It does not become effective until the decision review process is complete. (See PC section 3041 and 15 CCR § 2041). After the decision review process, the Board shall send the inmate the written decision of the Board.

If the attorney or his/her client is dissatisfied with the decision or any aspect of the hearing, the attorney or his/her client may file a BPT Form 1040 administrative appeal with the C&PR at the institution. See 15 CCR § 2050 et seq. Under *In re Muszalski* (1975) 52 Cal.App.3d 500, the **administrative remedies must be exhausted** prior to challenging administrative action in court. If the Board has appointed you, then the Board shall not pay you for any time or expense involved in filing the administrative appeal or subsequent court action. The only exception shall be if you were assigned as a reasonable accommodation for an inmate/parolee with a disability and you have received specific prior approval from the Board's Legal Unit.

Ten days before the Executive Board Meeting, considering any tie votes or decision reviews concerning your client, a notice shall be sent to you. The notice shall provide the date, time, and location of the meeting. The agenda for the Executive Board Meeting is posted on the Internet at

http://www.cdcr.ca.gov/DivisionsBoards/BOPH/meeting_agenda.html.

In decision review and tie vote cases, you must attend the Executive Board Meeting in Sacramento and make an oral statement representing the interests of your client. At the Board Meeting, you need not repeat any evidence or arguments since the Commissioners have reviewed the hearing record. The Board's guideline for speakers is five minutes. You are entitled to claim a total of two hours compensation for your preparation, travel, attendance, and oral statement at the Executive Board Meeting.

If you are unable to attend the Meeting personally, you may arrange to appear via telephone or submit a cassette audiotape or VHS format videotape, or a written statement to the full Board regarding the suitability of your client for parole. A written transcript should accompany taped comments. Please submit any taped or written statement as soon as possible so the Commissioners and interested parties shall have a sufficient opportunity to review your comments. You are entitled to claim a total of one hour in compensation for your telephone, taped or written statement to the full Board. Preparation time is not separately compensable.

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ATTORNEY ADVANCE INFORMATION SHEET PAROLE REVOCATION AND REVOCATION EXTENSION HEARINGS (15 CCR § 2600 et seq.)

Parole revocation and parole revocation extension hearings are conducted pursuant to Board of Prison Terms' Regulations, Title 15, Division 2 of the California Code of Regulations.

Scheduling of revocation hearings requires coordination between the Division of Adult Parole Operation (DAPO) and the Board of Prison Terms (Board) to ensure the availability of DAPO staff, Board deputy commissioners and witnesses. The time and date of the hearing shall not be changed except under highly unusual circumstances.

The hearing is an administrative hearing, not a criminal trial. One deputy commissioner shall conduct the hearing. The following are some issues the attorney should be aware of before the hearing:

Before the hearing, the Board expects the attorney to interview his/her client and review the charges sufficiently in advance of the hearing so the attorney will be prepared at the hearing. A failure to interview the client and review the file or other unprofessional conduct may result in the removal from the list of attorneys available to represent prisoners at Board hearings. From time to time, the Board updates its policies and expectations concerning appointed attorneys. For example, see the attached memorandum dated November 7, 2001 concerning implementation of the permanent injunction in *Armstrong v. Davis* [applying the Americans with Disabilities Act (ADA) to prisoners and parolees].

The attorney or his/her client is responsible for requesting the presence of any persons as witnesses at the hearing. The request must be made to the DAPO hearing agent assigned to the case. To ensure the attendance of a witness at the hearing, it is important that the full first and last names of the witness are provided to DAPO, if known. The attorney or his/her client must notify dispositional witnesses of the hearing date, time and place, proper attire, and the hearing facility's identification requirements. DAPO will make every effort to ensure that any evidentiary witness requested by the attorney is present at the hearing. An evidentiary witness is a person who has given information against a parolee. All other witnesses are considered dispositional witnesses.

Before requesting any witnesses, the attorney should consider the following questions: Is the witness' testimony relevant and material to the issue involved? Is the witness' testimony cumulative? Prior to the date of the hearing, the attorney must advise the hearing agent of the witnesses who will appear.

The Board is authorized to issue subpoenas (see 15, CCR §§ 2675-2682) and shall reimburse subpoenaed witnesses at the fee and mileage rate established by the Government Code.

Subpoenas shall be issued according to the following criteria:

- a. Requests must be made directly to the hearing agent at least ten (10) working days prior to the scheduled hearing date. This means the attorney should determine witness needs as soon as possible upon being appointed as counsel.

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- b. Normally, only evidentiary witnesses shall be subpoenaed. The exception is a dispositional witness who could provide evidence that the parolee did not commit the parole violation and who refuses to appear after the attorney has made contact.
- c. The hearing agent will screen requests, prepare the subpoena and arrange for service of process.

DAPO will disclose to the attorney the maximum amount of information concerning his/her client and the incident that led to the proceedings consistent with the safety of other individuals. Since the rights to confrontation and cross-examination are not absolute in this hearing, the deputy commissioner may receive confidential evidence. Confidential information shall not be disclosed to the attorney or his/her client if disclosure would subject another individual to a risk or harm.

Formal rules of evidence do not apply to this hearing and all relevant evidence is admissible. In particular, hearsay evidence and evidence that might be subject to the exclusionary rule at a criminal trial are often admissible. The standard of proof at this hearing is "preponderance of the evidence." The attorney and his/her client shall be given a summary of evidence relied on and the reasons for the action.

Should the attorney or his/her client be dissatisfied with the outcome of the hearing or with any aspect of the hearing, an appeal may be filed (see 15 CCR §§ 2050-2056). DAPO provides the necessary appeal forms upon request. Under *In re Muszalski* (1975) 52 Cal.App.3d 500, the exhaustion of administrative remedies is required before the attorney may challenge the hearing procedure by a petition for a writ of habeas corpus in the California courts. **NOTE: Attorneys appointed by the Board shall not be paid for any time spent assisting a parolee in filing an administrative appeal or pursuing any legal remedies concerning any aspect of the revocation/revocation extension hearing without prior approval from the Board's Legal Unit.**

The Board uses two types of waivers for parole revocation hearings; optional and unconditional (see 15, CCR, § 2641).

In the optional waiver, the parolee waives the revocation hearing because of pending criminal prosecution but retains the option of later requesting a hearing. The optional waiver must be submitted directly to the hearing agent at least five (5) working days before the scheduled hearing. The immediate submission of the waiver is necessary because the deputy commissioner, parole staff and witnesses, including those who have been subpoenaed, must be notified that the hearing has been canceled. The deputy commissioner shall not accept an optional waiver at the hearing absent good cause for the delay. Once a waiver is submitted, the hearing agent will forward the signed waiver and all parole violation documents to the Board. The Board shall review the documents and make a finding.

In the unconditional waiver, the parolee waives the revocation hearing and the right to contest charges, call witnesses and counsel. If the parolee submits an unconditional waiver before a scheduled hearing, the agent will process it the same as an optional waiver. If the parolee decides to submit an unconditional waiver at the time and place scheduled for a hearing and a deputy commissioner accepts it, there is no hearing. The deputy commissioner shall document on the BPT Form 1104, Summary of Revocation Decision, the evidence considered for each charge and reasons for disposition.

ATTORNEY ADVANCE INFORMATION SHEET

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MENTALLY DISORDERED OFFENDER HEARINGS

(PC section 2966 (a), PC section 2964 (b) and PC section 2966 (c))

A **Certification Hearing** is conducted pursuant to Penal Code section 2966(a) to determine whether the parolee meets the criteria outlined in Penal Code section 2962 for treatment by the State Department of Mental Health (DMH) as a special condition of parole.

A **Placement Hearing** is conducted pursuant to Penal Code section 2964(b) to determine whether the parolee can be safely and effectively treated by DMH on an outpatient basis.

An **Annual Review Hearing** is conducted pursuant to Penal Code sections 2966(c) and 2964(b) to determine whether the parolee's severe mental disorder is not in remission or cannot be kept in remission without treatment and whether the parolee can be safely and effectively treated on an outpatient basis if he/she is still being treated as an inpatient.

The scheduling of these hearings requires coordination among the Department of Corrections Parole & Community Services Division (DAPO), DMH and the Board of Prison Terms (Board) to ensure the availability of the DAPO staff, Board deputy commissioners, witnesses and the hearing location. The time and date of a hearing shall not be changed except under highly unusual circumstances. The hearing panel shall consist of two deputy commissioners.

The attorney must determine within seven (7) days from the date of the appointment whether the inmate needs independent evaluations, if he/she has not already made a determination. The attorney is responsible for returning the completed request form to the DAPO hearing agent.

The Board expects the attorney to interview his/her client and review his/her file sufficiently in advance of the hearing so the attorney will be prepared at the hearing. Failure to interview the client and review the file or other unprofessional conduct may result in removal from the list of attorneys available to represent prisoners at Board hearings. When arranging interviews, the attorney should check with the facility concerning the hours during which he/she may see their client.

The hearing is not a criminal trial, but an administrative hearing. The formal rules of evidence do not apply. The hearing panel may permit admission of any relevant evidence. Thus, the panel may admit hearsay evidence or evidence that might be suppressed by a court. The standard of proof at these hearings is a "preponderance of evidence." The attorney or his/her client may submit any relevant documents to the hearing panel. At the hearing, the attorney or his/her client may present statements and arguments and ask questions of the witnesses.

The parolee has the right to file a petition with the superior court if he or she disagrees with the Board certification or annual hearing decision pursuant to Penal Code section 2966(b). The attorney must assist the parolee in preparing the petition. **NOTE: Attorneys appointed by the Board shall not be paid for any time spent assisting a parolee in filing an administrative appeal concerning the MDO hearing without prior approval from the Board's Legal Unit.**

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ATTORNEY ADVANCE INFORMATION SHEET AB 888 VIOLENT SEXUAL PREDATOR PROBABLE CAUSE HEARING (Title 15, California Code of Regulations (CCR), § 2600.1)

The Sexual Violent Predator Probable Cause Hearings are conducted pursuant to Assembly Bill 888 which adds section 6600 and following, of the Welfare & Institutions Code, and is adopted into Title 15, CCR, § 2600.1.

AB 888 was adopted to prevent a continual threat to society by those persons who are identified as “sexual predators” by means of continued treatment within the Department of Mental Health (DMH).

The Department of Corrections and the Board of Prison Terms (Board) shall identify and screen inmates or revoked parolees based upon whether they have committed a sexually violent predatory offense against two or more victims. Inmates/parolees who are identified shall receive clinical evaluations to determine if there is a current mental disorder that predisposes them to engage in sexually violent criminal behavior. It is the intent of the Legislature that these individuals be committed and treated for their disorders only as long as the disorders persist and not for any punitive purposes.

The Board's hearing is to determine if probable cause exists based upon the above criteria. If probable cause is found, the inmate or revoked parolee shall have a 45-day “hold” placed upon him or her and be transferred to a facility designated by the DMH for further evaluation and possible referral to the district attorney and the courts. If the Board, the DMH or the district attorney finds that there is insufficient probable cause, then the inmate or revoked parolee shall be released on parole. If no further proceeding is ordered by the end of the “hold,” then the “hold” shall be removed and the inmate or parolee shall be released on parole.

One commissioner or deputy commissioner conducts the probable cause hearing. The hearing is located at the institution housing the prisoner or parolee.

Before the hearing, the Board expects the assigned attorney will interview the client. The attorney may also review all non-confidential information contained in the Central File.

The prisoner or revoked parolee has the right to waive his or her presence at the hearing. Board rules provide for these situations by permitting the hearing to be conducted in absentia with representation of counsel. Board rules do not provide for the personal appearance of the clinical evaluator at these hearings.

NOTE: Attorneys appointed by the Board shall not be paid for any time spent assisting a parolee in filing an administrative appeal or pursuing any legal remedies concerning the SVP hearing without prior approval from the Board's Legal Unit.

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POLICY, GUIDELINES AND BILLING INSTRUCTIONS FOR ATTORNEYS APPOINTED TO REPRESENT PRISONERS OR PAROLEES AT BOARD HEARINGS

POLICY

1. Attorneys appointed to represent indigent prisoners and parolees at Board hearings shall be paid by the Board for reasonable time spent in preparing for the hearing and representing the prisoner or parolee at the hearing. The Board shall pay an attorney at a rate of \$30.00 per hour. Payment shall be based on the Board's estimate of time required by an experienced criminal counsel for the type of hearing involved.
2. The Board shall not pay appointed attorneys for time spent pursuing other administrative or legal remedies that may be sought because of issues arising from the hearing or preparation for the hearing, i.e. petitions for writs of habeas corpus, prohibition mandamus, etc.
3. The Board shall not pay appointed attorneys for out-of-pocket and overhead expenses since these items are covered in the hourly fee. Examples of expenses that shall not be reimbursed include the cost of preliminary hearing transcripts and trial transcripts. If the attorney believes these documents are essential, the attorney should call the Board so arrangements can be made for the Board to provide the documents to the attorney.
4. The bill for a particular appointment should not be submitted until the Board has held a hearing and reached a decision in the case. If the hearing is postponed and the attorney is appointed for the later hearing, the bill should not be submitted until the hearing has concluded. If a hearing is postponed and the attorney is not appointed for the later hearing, the attorney may submit his/her bill when notified that he/she will not represent the prisoner or parolee at the later hearing. However, if a Board appointment is limited solely to a one-hour Consultation concerning the parole revocation [and the hearing is assigned to another attorney], that Consultation may be billed anytime after the services are provided.

GUIDELINES

For Lifer Hearings:

The Board has determined that a reasonably experienced attorney appointed for a parole consideration hearing is able to complete the case (preparation, hearing, and travel) within 8 hours. The Board shall not pay an attorney for additional time without prior authorization from the Board's Legal Unit. This authorization shall be based upon finding the additional time justified by the complexity of the case or by unusual difficulties encountered in preparing for the hearing. Further, the Board must agree that the amount of additional time spent is reasonable. *If approval is granted, indicate such on the invoice.* However, an attorney may claim an extra hour of compensation for Americans with Disability Act (ADA) reasons in relation to hearings without advance approval. Thus, up to 9 hours is authorized for ADA Lifer Hearings. *“ADA” must clearly be stated on the invoice.* Based on experience, the following are suggested as

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reasonable amounts of time generally spent on the various aspects of hearing preparation:

Client interview	1 hour	
File Review	2 hours	
Research	1 hour	
Hearing	1 hour	
Travel:	Reasonable and necessary travel time from attorney's office to (1) interview inmate one time, and (2) represent client at hearing. If hearing is postponed, additional time, if reasonable and necessary.	
ADA Effective Communication	1 hour	Only if applicable.

For Parole Revocation Hearings:

The Board has determined that a reasonably experienced attorney appointed for a parole revocation hearing is able to complete the case (preparation, hearing, and travel) within 6 hours. The Board shall not pay an attorney for additional time without prior authorization from the Board's Legal Unit. This authorization is based upon finding the additional time justified by the complexity of the case or by unusual difficulties encountered in preparing for the hearing. Further, the Board must agree that the amount of additional time spent is reasonable. If *approval is granted, indicate such on the invoice*. However, an attorney may claim an extra hour of compensation for ADA reasons in relation to hearings without advance approval. Thus, up to 7 hours is authorized for ADA Parole Revocation Hearings. *“ADA” must clearly be stated on the invoice*. Based on experience, the following are suggested as reasonable amounts of time generally spent on the various aspects of parole revocation hearing preparation:

Client interview	1 hour	
File Review	1 hour	
Witness Interviews	1 hour	
Hearing	1 hour	
Travel:	Reasonable and necessary travel time from attorney's office to (1) interview inmate one time, and (2) represent client at hearing. If hearing is postponed, additional time, if reasonable and necessary.	
ADA Effective Communication	1 hour	Only if applicable.

Parole Revocation Extension Hearings:

The Board has determined that a reasonably experienced attorney, appointed for a parole revocation extension hearing, is able to complete the case (preparation, hearing, and travel) within 4 hours. The Board shall not pay an attorney for additional time without prior authorization from the Board's Legal Unit. This authorization is based upon finding the additional time justified by the complexity of the case or by unusual difficulties encountered in preparing for the hearing. Further, the Board must agree that the amount of additional time spent is reasonable. If *approval is granted, indicate such on the invoice*. However, an attorney may claim an extra hour of compensation for ADA reasons in relation to hearings without advance approval. Thus, up to 5 hours is authorized for ADA Parole Revocation Extension Hearings. *“ADA” must clearly be stated on the invoice*. Based on experience, the following are suggested as reasonable amounts of time generally spent on the various aspects of parole revocation extension hearing preparation:

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Client interview	1 hour	
File Review	1 hour	
Witness Interviews	1/2 hour	
Hearing	1/2 hour	
Travel:	Reasonable and necessary travel time from attorney's office to (1) interview inmate one time, and (2) represent client at hearing. If hearing is postponed, additional time, if reasonable and necessary.	
ADA Effective Communication	1 hour	Only if applicable.

Mentally Disordered Offender Hearings (Placement or Certification):

The Board has determined that a reasonably experienced attorney, appointed for an MDO placement or certification hearing, is able to complete the case (preparation, hearing, and travel) within 4 hours. The Board shall not pay an attorney for additional time without prior authorization from the Board's Legal Unit. This authorization is based upon finding the additional time justified by the complexity of the case or by unusual difficulties encountered in preparing for the hearing. Further, the Board must agree that the amount of additional time spent is reasonable. *If approval is granted, indicate such on the invoice.* However, an attorney may claim an extra hour of compensation for ADA reasons in relation to hearings without advance approval. Thus, up to 5 hours is authorized for ADA MDO Placement or Certification Hearings. *“ADA” must clearly be stated on the invoice.* Based on experience, the following are suggested as reasonable amounts of time generally spent on the various aspects of parole revocation hearing preparation:

Client Interview	1 hour	
File Review	1 hour	
Witness Interviews	½ hour	
Hearing	½ hour	
Travel:	Reasonable and necessary travel time from attorney's office to (1) interview inmate one time, and (2) represent client at hearing. If hearing is postponed, additional time, if reasonable and necessary.	
ADA Effective Communication	1 hour	Only if applicable.

Mentally Disordered Offender Hearings (Annual Review):

The Board has determined that a reasonably experienced attorney appointed for a Mentally Disordered Offender (MDO) annual review hearing is able to complete the case (preparation, hearing, and travel) within 3 hours. The Board shall not pay an attorney for additional time without prior authorization from the Board's Legal Unit. This authorization is based upon finding the additional time justified by the complexity of the case or by unusual difficulties encountered in preparing for the hearing. Further, the Board must agree that the amount of additional time spent is reasonable. *If approval is granted, indicate such on the invoice.* However, an attorney may claim an extra hour of compensation for ADA reasons in relation to hearings without advance approval. Thus, up to 4 hours is authorized for ADA MDO Annual Review Hearings. *“ADA” must clearly be stated on the invoice.* Based on experience, the following are suggested as

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reasonable amounts of time generally spent on the various aspects of MDO hearing preparation:

Client Interview	½ hour	
File Review	½ hour	
Witness Interviews	½ hour	
Hearing	½ hour	
Travel:	Reasonable and necessary travel time from attorney's office to (1) interview inmate one time, and (2) represent client at hearing. If hearing is postponed, additional time, if reasonable and necessary.	
ADA Effective Communication	1 hour	Only if applicable.

Sexually Violent Predator (SVP) (Probable Cause Hearing):

The Board has determined that a reasonably experienced attorney appointed for a sexually violent predator probable cause hearing is able to complete the case (preparation, hearing, and travel) within 4 hours. The Board shall not pay an attorney for additional time without prior authorization from the Board's Legal Unit. This authorization is based upon finding the additional time justified by the complexity of the case or by unusual difficulties encountered in preparing for the hearing. Further, the Board must agree that the amount of additional time spent is reasonable. *If approval is granted, indicate such on the invoice.* However, an attorney may claim an extra hour of compensation for ADA reasons in relation to hearings without advance approval. Thus, up to 5 hours is authorized for ADA SVP Hearings. *“ADA” must clearly be stated on the invoice.* Based on experience, the following are suggested as reasonable amounts of time generally spent on the various aspects of SVP hearing preparation:

Client Interview	1 hour	
File Review	1 hour	
Witness Interviews	½ hour	
Hearing	½ hour	
Travel:	Reasonable and necessary travel time from attorney's office to (1) interview inmate one time, and (2) represent client at hearing. If hearing is postponed, additional time, if reasonable and necessary.	
ADA Effective Communication	1 hour	Only if applicable.

The Board's Legal Unit can be reached at (916) 322-6729.

BILLING INSTRUCTIONS

The Attorney's Invoice (BPT Form 1076) is provided in the confirmation letter sent to the attorney upon securing his/her representation of an inmate or parolee at a Board of Prison Terms (Board) hearing. Compliance with the following is required for expeditious processing of invoices.

1. The invoice should be filled out completely, including first and last name of the Inmate/Parolee, CDC number, location and time of hearing, and hearing disposition. Include the attorney's original signature (not a copy), complete address, state bar number, and Social Security Number. The State Controller's

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Office will not pay an invoice without the Social Security Number. Incomplete statements shall be denied payment and shall be returned to the attorney.

2. Next to "Other" in the "HEARING DISPOSITION" box, indicate the type of hearing (e.g.: lifer, revocation, or revocation extension). Failure to include any of the above information (items 1 and 2) shall cause a delay in the payment of the invoice.
3. The service performed must be specifically described. Appearances, research, interviewing client, interviewing witnesses, and travel must be separately identified and the hour and date of each separate occurrence must be noted.
4. Description of travel must show locations between which attorney traveled.
5. The hours spent performing the service shall be specified to the nearest one-fourth of an hour (fifteen minutes).
6. If total hours billed for any case exceed the maximums permitted in this "Attorney Packet," then the hours, specific justification and prior approvals must be specified.
7. Attaching extra pages are permitted, if necessary. Total hours and amount billed should be included on front of the Attorney's Invoice (BPT Form 1076).
8. Return the top two (2) pages of the Attorney's Invoice to the assignment authority shown in the upper left box. Retain the third page for the attorney's records.
9. If services overlap fiscal years (periods July 1 through June 30), services must be submitted on separate invoices.

RULES GOVERNING ATTORNEY APPEARANCES AT BOARD OF PRISON TERMS HEARINGS

ATTORNEY PREPARATION

Prior to the date of any Board of Prison Terms (Board) hearing, the attorney must become prepared. He/she should have reviewed the prisoner's file and interviewed the prisoner, if appropriate. He/she shall be familiar with the laws and rules governing the hearing and with the documents and issues to be considered at the hearing.

ATTORNEY APPEARANCE

The attorney is responsible for being present at the appointed time and place before the hearing begins. The attorney should allow sufficient time to clear through prison security when making an appearance at a prison facility.

An attorney who is unable, for any reason, to be present at a scheduled hearing shall be responsible for notifying the Board's Scheduling Unit as early as possible to assist in the rescheduling of the hearing. Any attorney who does not notify Board's Scheduling Unit of an inability to make a scheduled appearance may be dropped from the list of appointed attorneys. The Board's Scheduling Unit can be reached at (916) 324-1924.

BOARD OF PAROLE HEARINGS “ATTORNEY PACKET”

COURT CONFLICTS

If an attorney is unable to appear at a scheduled hearing before the Board because of a conflicting court appearance, the attorney shall notify the Board's Scheduling Unit at the earliest possible time. In addition, written notice to the Legal Unit **must** be given 48 hours or more prior to the scheduled Board hearing. The Board Legal Unit's fax number is (916) 322-3475.

This written notice shall include the following information:

1. The name and location of the court.
2. The date and time of the court appearance.
3. The name of the judge before whom the attorney is appearing.
4. The name of the case and court case number of the case upon which the attorney is appearing.

MOTIONS AND OBJECTIONS

When offered, motions and objections shall be supported by citations to the appropriate section(s) of the California Code of Regulations (CCR), statute, or relevant case law.

REMOVAL OF ATTORNEYS FROM APPOINTMENT LIST

The following are examples of conduct that may result in the removal of an attorney from the Board's list of appointed attorneys:

1. Failure to keep California Bar License in good standing.
2. Failure to keep effective professional liability insurance coverage with minimum policy limits of \$100,000/\$300,000 and provide the Board with proof.
3. Failure to appear at scheduled hearings and/or appointments.
4. Failure to pass prison/jail metal detectors, or satisfy security rules due to criminal convictions. Medical exemptions must be documented.
5. Failure to be fully prepared for appearances at hearings or required Board meetings.
6. Failure to be familiar with the Board rules and procedures governing hearings and the Americans with Disabilities Act (ADA).
7. Repeated or continued frivolous motions, objections and/or tactics that unduly disrupt or prolong hearings.

The Board's list of appointed attorneys is purely a convenience to the Board and creates no rights or entitlements for the listed attorney being appointed in regard to any future case. The Board may add prerequisites concerning the appointment list, purge it, or reconstitute it at any time and without prior notice. Either party is free to refuse a particular appointment or terminate the relationship upon written notice to the other. However, the attorney may not withdraw from a case they have accepted without written permission from the Board's Legal Unit. Cases where an appointment was offered, accepted, and performed shall be compensated in accord with Board policies and applicable law.